
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Kondrk et al.

Attorney Docket No.: 101-P291/P3157US1

Application No.: 10/687,534

Examiner: Refai, Ramsey

Filed: October 15, 2003

Group: 3627

Title: Method and System for
Submitting Media for Network-Based
Purchase and Distribution

Confirmation No.: 7744

**PETITION TO REVIVE UNAVOIDABLY ABANDONED
APPLICATION OR LAPSED PATENT (37 CFR 1.137(a))**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby petitions that the abandoned application or lapsed patent be revived.

The required reply ☒ is attached. ☐ has been filed.

☐ is a continuing application which is attached.

☐ is a Request for Continued Examination which is
attached.

An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of this petition was unavoidable is enclosed.

☐ A terminal disclaimer if required by 37 CFR 1.137(c) is attached.

☒ Since this utility application was filed on or after June 8, 1995, no terminal disclaimer is required.)

☒ It is believed that a Petition Fee is not required. MPEP 711.03(C) II.

☒ The Commissioner is authorized to charge any fees which may be required, or to credit any overpayment, to Deposit Account No. 500388 (Order No. 101-P291).

Respectfully submitted,

/C. Douglass Thomas/
C. Douglass Thomas
Registration No. 32,947

(408) 955-0535

**STATEMENT OF FACTS SUPPORTING PETITION TO REVIVE UNAVOIDABLY
ABANDONED APPLICATION OR LAPSED PATENT (37 CFR 1.137(a))**

Sir:

Applicant hereby petitions that the subject application, which is presumably presently abandoned, to be revived.

Applicant's attorney (the undersigned attorney) did not ever receive from USPTO a copy of the Office Action dated August 4, 2009 (hereafter "missing Office Action") allegedly send by the USPTO on such date.

On February 23, 2010, Applicant's attorney received a Notice of Abandonment dated February 17, 2010 (copy attached, see date received stamp). That same day, Applicant's attorney accessed PAIR and obtained a copy of the missing Office Action. The docket stamp on the front page of Applicant's copy of the missing Office Action indicates receipt on February 23, 2010 (copy attached). On or about that same day, Applicant's attorney searched its office and file for such patent application for any evidence of receipt of the missing Office Action; no such evidence was found. Applicant's attorney docketing system also showed no existence of the missing Office Action.

As such, Applicant and Applicant's attorney were not aware of the existence of the missing Office Action until receiving the Notice of Abandonment. This petition is being submitted within two months of the Notice of Abandonment. Consequently, it is submitted that the entire delay in filing the required reply from the due date for the reply until the filing of this petition was unavoidable.

Respectfully submitted,

/C. Douglass Thomas/
C. Douglass Thomas
Registration No. 32,947



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,534	10/15/2003	Robert H. Kondrk	101-P291/P3157US1	7744
67521 7590 08/04/2009 TECHNOLOGY & INNOVATION LAW GROUP, PC ATTN: 101 19200 STEVENS CREEK BLVD., SUITE 240 CUPERTINO, CA 95014			EXAMINER REFAI, RAMSEY	
			ART UNIT	PAPER NUMBER
			3627	
			MAIL DATE	DELIVERY MODE
			08/04/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

TI Law Group, PC

FEB 23 2010

Received Date



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/687,534

10/15/2003

Robert H. Kondrk

101-P291/P3157US1

7744

67521 7590 02/17/2010
TECHNOLOGY & INNOVATION LAW GROUP, PC
ATTN: 101
19200 STEVENS CREEK BLVD., SUITE 240
CUPERTINO, CA 95014

EXAMINER

REFAI, RAMSEY

ART UNIT

PAPER NUMBER

3627

MAIL DATE

DELIVERY MODE

02/17/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

TI LAW GROUP, PC
Dkt No. <u>101P291</u>
Action <u>Response to</u>
<u>Abandonment</u>
Due Date <u>04/17/10</u>
Atty <u>rdt</u>
Assoc _____

TI LAW GROUP, PC

FEB 23 2010

Docketed Date

Notice of Abandonment

Application No.

10/687,534

Examiner

Ramsey Refai

Applicant(s)

KONDRK ET AL.

Art Unit

3627

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address-

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 04 August 2009.
- (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
- (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
- (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
- (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
- (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
- (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
- (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
- (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
- (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

/Ramsey Refai/
Primary Examiner, Art Unit 3627

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.